

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

ALIGN TECHNOLOGY, INC.,

No. C-05-2948 MMC

Plaintiff,
v.

**ORDER GRANTING DEFENDANT
ORTHOCLEAR HOLDINGS, INC.'S
ADMINISTRATIVE REQUEST TO
WITHDRAW MOTION TO DISMISS**

ORTHOCLEAR, INC. and ORTHOCLEAR
HOLDINGS, INC.,

Defendants

Before the Court is defendant OrthoClear Holdings, Inc.'s ("Holdings") administrative request to withdraw its motion to dismiss for lack of personal jurisdiction. Plaintiff Align Technology, Inc. ("Align") has filed a response thereto. Having read and considered the papers filed in support of and in opposition to the motion, the Court rules as follows.

Given that Holdings now seeks to consent to the jurisdiction of the Court, Holdings's administrative motion is hereby GRANTED, and the motion to dismiss for lack of personal jurisdiction, currently scheduled for hearing on May 12, 2006, is VACATED. Holdings is hereby ORDERED to file an answer to the complaint no later than five court days from the date of this order.

Align's request that withdrawal of the motion be contingent on the Court's extending the fact discovery cut-off is DENIED without prejudice. The issue of whether good cause to extend the discovery cut-off exists will be addressed in the context of Align's subsequently-

1 filed administrative motion to extend the discovery cut-off.

2 Align's request that withdrawal of the motion be contingent on the Court's requiring
3 Holdings to pay Align its expenses incurred in investigating and opposing the motion is
4 DENIED without prejudice to Align's filing a motion for sanctions. See Civil L.R. 7-8
5 (providing motion for sanctions, regardless of source of authority invoked, must be
6 separately filed and noticed for hearing).

7 **IT IS SO ORDERED.**

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9 Dated: March 16, 2006


MAXINE M. CHESNEY
United States District Judge